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**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Fredericksburg, Converse, Flatonia,
Georgetown, Ingram, Lakeway, Lago Vista,
Llano, McQueeney, Nolanville, San Antonio,
and Waco, Texas)

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MB Docket No. 05-112
RM-11185
RM-11374

FILED/ACCEPTED

NOV 23 2007

Federal Communications Commission
Office of the Secretary

Amendment of Section 73.202(b)
Table of Allotments,
FM Broadcast Stations.
(Llano, Junction and Goldthwaite, Texas)

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MB Docket No. 05-151
RM-11222
RM-11258

REPLY TO OPPOSITIONS TO PETITION FOR RECONSIDERATION

Capstar TX Limited Partnership, CCB Texas Licenses, L.P., Clear Channel Broadcasting Licenses, Inc., and Rawhide Radio, LLC ("Joint Parties"), by their counsel, hereby submit this Reply to the Oppositions to Petition for Reconsideration filed by Charles Crawford and Kathryn Pyeatt ("Crawford"), Radio Ranch, Ltd. ("RRL"),¹ and Munbilla Broadcasting Properties, Ltd. ("MBPL") in these proceedings. In support hereof, the Joint Parties state as follows:

BACKGROUND

1. On May 9, 2005, the Joint Parties' filed a Counterproposal in MB Docket No. 05-112. This Counterproposal was a refiling² of the Counterproposal submitted in MM Docket No.

¹ RRL has not previously participated in either MB Docket Nos. 05-112, 05-151, or in the related proceeding, MB Docket No. 01-148. RRL has not identified itself nor stated what interest it may have which would be affected by the Joint Parties' proposal.

² The Joint Parties refer to the filing as a refiling because it substantially replicates the October 10, 2000 Counterproposal filed in MM Docket No. 00-148.

00-148 (“the Quanah proceeding”).³ The Joint Parties implored the Commission to resolve the Quanah proceeding first. That request was ignored. As a result, the Fredericksburg, Texas, and Llano, Texas, et al, proceedings are caught up in reconsideration proceedings. The Media Bureau has made several serious errors that have precluded consideration of the Joint Parties’ proposal ever since it was originally filed on October 10, 2000. In that Counterproposal, the Joint Parties stated “in the event that the Commission finds a defect in some portion of the proposal, it can be severed into two separate proposals, either of which can be granted independently.”⁴ The Joint Parties then set forth the specific proposals which could be considered separately.⁵ The Commission ignored this separate proposal. At that time, the Commission had no stated policy prohibiting consideration of alternative proposals.⁶ Despite the fact that the Commission had no such policy at that time, the Joint Parties would have refiled its proposal if it were possible to do so. However, the Media Bureau failed to enter the proposal into its data base and protect it against later filed conflicting rule making proposals and applications. As a result, eight (8) conflicting petitions and two (2) conflicting applications were either granted, accepted or held in queue. Although the Commission later recognized its mistake and dismissed some of the late filed conflicting proposals, presumably to allow it to consider the Joint Parties’ proposal, the Commission has yet to consider the Joint Parties’ proposal on the merits. As far back as June 16, 2003, the Joint Parties urged the Commission to initiate a

³ *Quanah, TX, et al.*, 18 FCC Rcd 9495 (MB 2003), *aff’d Memorandum Opinion and Order*, 19 FCC Rcd 7159 (MB 2004), *app. for review pending*.

⁴ Joint Parties Counterproposal at pp. 36-39.

⁵ *Id.*

⁶ That prohibition was first announced in 2001. *See Winslow, Camp Verde, Mayer and Lew City, Az*, 16 FCC Rec 9551 (MB 2001) at para. 9. In that case, the Bureau stated that “effective upon publication of this *Memorandum Opinion & Order* in the Federal Register, we will no longer entertain optional or alternative proposals....”

separate proceeding by NPRM and allow comparative consideration of the Joint Parties' Counterproposal and all of the errantly accepted conflicting petitions as well as any new proposals that may be timely filed.⁷ However, that suggestion has also been ignored. Attached as Exhibit 1 is a copy of the Petition for Partial Reconsideration and Request for Expedited Action filed on June 16, 2003. That Petition contains many of the same arguments being made by the Joint Parties in this proceeding more than 4 years later. The Joint Parties request that the pleading be made part of the record in this proceeding.

2. Instead, the Bureau stated in its 2003 *Memorandum Order & Opinion*⁸ in MM Docket 00-148 that the Joint Parties should refile their proposal once the conflicting proposals were dismissed. But it is more than four years later and several of those proposals are still pending despite the Court of Appeals decision that these proposals should not have been accepted. The Joint Parties did try to refile in the instant proceeding in order to protect their proposals from these additional conflicting petitions. However, the Bureau held that the Joint Parties failed to protect MBPL's permit for Station KHLE, which, in turn, was granted conditioned on Joint Parties' proposal! The Bureau justifies this treatment under its *Auburn*⁹ policy (which was decided later in 2003). But with all of the previous Commission errors, the *Auburn* policy should not have been applied to permit the filings in this proceeding

CRAWFORD'S OPPOSITION

3. Crawford irresponsibly charges the Joint Parties with having some role in the filing of the original Quannah petition. The Joint Parties have stated repeatedly and unequivocally

⁷ Petition for Partial Reconsideration and Request for Expedited Action at pp. 1-2.

⁸ 19 FCC Rcd 7159 (MB 2004).

⁹ 18 FCC Rcd 10333 (MB 2003)

that they knew nothing of this proposal nor of the party who filed the proposal. Also Crawford asserts that “Now the Joint Parties want the Commission to issue a NPRM.”¹⁰ However, the Joint Parties urged the Commission to issue a NPRM on many occasions starting as far back as 2003. The only obstacle to the issuance of the NPRM has been the numerous conflicting proposals filed by Crawford. The Joint Parties have stated that the Commission does not need to dismiss these conflicting proposals before issuing the NPRM, it can combine them into the NPRM.¹¹

4. Crawford claims that “the Joint Parties’ reconsideration petition would not serve the public interest.” However, the Joint Parties would provide two first local services to Lakeway and Lago Vista, Texas and an overall net gain in 60 dBu coverage to over one million people. Crawford pretends that the Court of Appeals has announced a policy which limits the inclusion of proposals to the distance of two full class C facilities or approximately 300 miles in all directions. No such policy was announced by the Court and certainly has not been adopted by the Commission. As for Kathryn Pyeatt’s participation in this proceeding, the Joint Parties try to avoid the rampant speculation conducted by other parties against them but it is unclear why she is contesting the Petition for Reconsideration when she has voluntarily and, without responding to anyone else’s request, withdrew her interest in the Fredericksburg proposal.

RADIO RANCH’S OPPOSITION

5. RRL claims that the Joint Parties raised only two matters that are in any way substantive. First, RRL refers to the Joint Parties’ previous request to separate their proposal from the larger counterproposal submitted on October 10, 2000 in MM Docket No. 00-148.

¹⁰ Opposition at p. 2.

¹¹ See Petition for Partial Reconsideration in MM Docket No. 00-148 referenced in note 5, *supra*.

RRL states that the Bureau has already rejected it and “need not reconsider it now.” RRL is wrong. The Joint Parties’ Request to separate its proposal has been ignored repeatedly and without explanation by the Bureau. As a matter of fairness for all of the mistakes that it has made, the Bureau should definitely reconsider and at the very least issue a Notice of Proposed Rule Making. RRL notes that “the Joint Parties’ Counterproposal was deemed defective because of a short spacing problem....” RRL is wrong again. The short spacing problem did not involve the Joint Parties’ proposal either as set forth in this proceeding or as it was originally offered as an alternative in MM Docket No. 00-148. The Commission did depart from the precedent cited by the Joint Parties because its separate proposal was not technically defective.¹²

6. Second, RRL argues that the Commission properly applied its *Auburn* policy to this case, particularly since any party relying on the Commission’s earlier decision proceeds at their own risk. However, this proceeding is different and does not lend itself to the *Auburn* policy. In *Auburn*, the Commission decided to allow parties who file new proposals to rely on rule making grants that are effective but subject to appeal and therefore not final. The reason behind doing so was to avoid appeals designed to delay staff decisions and to allow third parties to take advantage of the decision since the parties to the proceeding could already do so.

7. Here applying the *Auburn* policy is not necessary to avoid delay in effectuating anyone else’s proposal. It should be clear that the Joint Parties are not interested in delaying anyone else’s proposal. Their only interest is to have their proposal considered on its merits. Nor is it the case that the Joint Parties are taking advantage of the Commission’s decision where third parties were unable to do so as in the *Auburn* proceeding. The Bureau denied the Joint Parties’

¹² See e.g., *Noblesville, Indianapolis, and Fishers, IN*, 18 FCC Rcd 11039 (MB2003); *Saratoga, WY, et al.*, 15 FCC Rcd 10358 (MMB 2000); *Oakdale and Campti, LA*, 7 FCC Rcd 1033 (MMB 1992); *Milford, UT*, 19 FCC Rcd 10335 (MB 2005).

Counterproposal in MM Docket No. 00-148 so there no implementation pending by any of the Joint Parties. Yet the Bureau has entertained several late filed petitions submitted by third parties which were accepted as a result of the Bureau's failure to enter the Joint Parties' Counterproposal into its data base and continues to entertain conflicting proposals and applications under this *Auburn* policy. However the Bureau has never before extended the Auburn policy to the type of circumstances involved in this case and by doing so is severely complicating the various related rule making and application proceedings.

MBPL'S OPPOSITION

9. MBPL complains that reconsideration would prejudice the Goldthwaite allotment. It emphasizes that the Joint Parties' Counterproposal did not protect the Station KHLE authorization and that the Bureau's decision recognizing this short spacing was correct. MBPL states that it is too late for the Joint Parties to correct this short spacing because it may affect administrative efficiency and the orderly processing of rule making proposals. MBPL states that when the Joint Parties' dismissal was final, it should have refiled its proposal to protect all prior filed petitions and applications and "that course of action has been – and remains – available to the Joint Parties."¹³

10. MBPL then asserts that on July 18, 2007, it applied to change channels for its permit at Mason, Texas (Facility ID No. 65378) from Ch 259A to Ch 249A(BMPH-20070718AAJ). MBPL states that it has filed under the *Auburn* policy and is willing to take the risk of an adverse ruling in either the *Quanah* or *Fredericksburg* proceedings. Finally, MBPL

¹³ Opposition at p. 6.

argues that the Petition for Reconsideration does not meet any of the standards set forth in Section 1.429(b) of the Commission's Rules.

11. It is surprising to hear that MBPL complains that the Joint Parties are causing the proceeding to become inefficient and disorderly. The Joint Parties have been victimized for over seven (7) years now by the extremely disorderly and inefficient manner in which its proposal has been treated. The Joint Parties have recounted numerous times that the Commission ignored and failed to protect the Joint Parties' proposal in the data base (CDBS), the Commission has yet to consider the proposal on its merits despite having described it as a "technically acceptable allotment proposal."¹⁴ Instead, during this seven (7) year period, the Commission has continued to accept conflicting proposals and then deny them for being late filed, delay processing them or grant them with a condition (and sometimes without a condition) on the outcome of MB Docket No. 00-148. The Joint Parties have alerted the Commission to this disorderly and inefficient process on numerous occasions. In addition, Crawford challenged this process and the dismissal of some of its proposals by filing reconsideration, review to the Commission, and in two cases, *Benjamin and Mason, Texas* (MM Docket Nos. 01-131 and 01-133), Crawford filed an appeal to the U.S. Court of Appeals.¹⁵ Invoking the *Auburn* policy has made the process exponentially more ineffective and disorganized. That is why the Joint Parties have referred to the Commission as "having lost its way" and "sending mixed signals" for the Joint Parties to refile with no impediments and then continue to place further impediments in its way. MBPL is misguided if it believes that the Joint Parties could have simply refiled its proposal after the *Report and Order* was issued in MM Docket 00-148.

¹⁴ *MO&O*, 19 FCC Rcd 7159 at paragraph 13.

¹⁵ *Crawford v. FCC*, 417 F.2d 1289 (DC Cir. 2005). The only purpose for the Commission to have dismissed these proposals would be to allow consideration of the Joint Parties' proposal on the merits

12. Here the Fredericksburg proposal is contingent on the Joint Parties' proposal in MM Docket No. 00-148. The Joint Parties were compelled to refile their proposal in this proceeding to ensure it remains protected. Notwithstanding this refiling, the Joint Parties' proposal for Channel 297A at Llano remains the same insofar as Munbilla is concerned.¹⁶ The Station KHLE permit is short spaced to the Channel 297A proposal at Llano by 3 kilometers. The proposal before the Commission in this proceeding is exactly the same – the substitution of Ch. 297A at Llano, Texas. It makes no sense for Munbilla to be able to argue that although it knowingly accepted a condition that its preferred site for Station KHLE was subject to the Llano proposal when filed in 2000, it is no longer subject to the same proposal when refiled in the current proceeding. To accept such an argument would be to place form over substance. To better deal with this problem created through no fault of the Joint Parties, the Commission should, at the very least, delay action in the Fredericksburg proceeding until after MM Docket 00-148 is final or, preferably, merge this docket into MM Docket 00-148 so that the Joint Parties may have their proposal considered on its merits without the influence of several other contingent, subsequent, and untimely filed proposals.

13. MBPL has now placed an additional obstacle in the way of an "orderly process" by filing an application to change channels for its Mason permit. The Joint Parties again urge the Commission to act in an orderly fashion and take appropriate action on the merits of the Joint Parties proposal first. Finally, as for the standards set forth in Section 1.429(b) for reconsideration, the Joint Parties offered a solution to the Station KHLE short spacing, pointed out that additional conflicting proposals such as *Christine, Texas* (MB Docket 07-78) continue to

¹⁶ As indicated, RRL's interest in this proposal has not been stated. In addition, Crawford has not indicated which of his many proposals is of concern by this refiling.

be filed, and certainly demonstrated that under subsection (3) the public interest would be served by having the Commission consider the Joint Parties proposal on its merits.

CONCLUSION

14. As the Joint Parties noted in its Petition for Reconsideration, it has been more than three (3) years since the filing of the Application for Review in MM Docket No. 00-148 and more than two (2) years since the Court of Appeals directed the Commission to dismiss the conflicting proposals. It is incumbent upon the Commission to take action in MM Docket 00-148 along with the pending conflicting petitions first and withhold action on any additional conflicting proposals to avoid further complications and administrative paralysis. This is not an appropriate proceeding to rely on the *Auburn* policy and continue to take actions on contingent proposals.

15. It is worth repeating that the Commission still has several alternatives available to resolve this matter. The Commission can consider the Joint Parties' proposal on review in the context of MM Docket No. 00-148 by issuing a NPRM in that proceeding. This option would be fair to all interested parties and allow any other conflicting proposal to receive comparative consideration. As suggested in the Application for Review, the Bureau could issue the NPRM now subject to any further action in MM Docket No. 00-148 taken on review by the Commission with respect to the late filed conflicting proposals previously dismissed by the Commission.

16. Alternatively, the Bureau can treat the Joint Parties' proposal filed in this proceeding as a response to its invitation to refile as stated in the *MO&O* in MM Docket No. 00-148 with the assurance that there would be no impediments to the acceptability of such a filing. Under this scenario any other proposals timely submitted in the instant proceeding, including the proposed new allotment for Goldthwaite, Texas, would receive comparative consideration. The

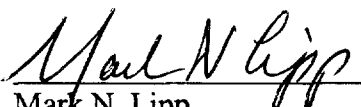
proceeding could also include the solution offered to the conflict noted in the *R&O* between the substitution of Ch. 297A at Llano, Texas for Station KAJZ(FM) and the authorization issued to Station KHLE(FM), Burnet, Texas on Ch. 295A. Rawhide Radio, LLC, one of the Joint Parties, and the licensee of the Llano station consented to the change in site.

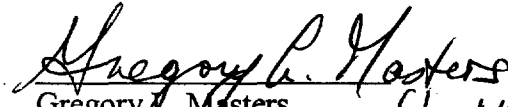
WHEREFORE, for the foregoing reasons, the Commission should reverse its decision and consider the Joint Parties' Counterproposal on its merits either in the *Quanah* proceeding or in this proceeding..

Respectfully submitted,

RAWHIDE RADIO, LLC

CLEAR CHANNEL BROADCASTING
LICENSES, INC.
CCB TEXAS LICENSES, L.P.
CAPSTAR TX LIMITED PARTNERSHIP

By: 
Mark N. Lipp
Wiley Rein LLP
1776 K Street NW
Washington, DC 20006
(202) 719-7503

By: 
Gregory L. Masters
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
(202) 719-7370
(by HNL)

Its Counsel

Their Counsel

November 23, 2007

Exhibit 1

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

JUN 16 2003

In the Matter of

Amendment of Section 73.202(b),

Table of Allotments,

FM Broadcast Stations.

(Quanah, Archer City, Converse, Flatonia,

Georgetown, Ingram, Keller, Knox City,

Lakeway, Lago Vista, Llano, McQueeney,

Nolanville, San Antonio, Seymour, Waco and

Wellington, Texas, and Ardmore, Durant,

Elk City, Healdton, Lawton and Purcell,

Oklahoma.)

MM Docket No. 00-148

RM-9939

RM-10198

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: Chief, Audio Division
Media Bureau

PETITION FOR PARTIAL RECONSIDERATION
AND REQUEST FOR EXPEDITED ACTION

Rawhide Radio, LLC, Capstar TX Limited Partnership, and Clear Channel Broadcasting Licenses, Inc. (collectively "Joint Petitioners"), by their counsel, pursuant to Section 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, hereby petition for partial reconsideration of the *Report and Order* in the above-captioned proceeding, DA 03-1533 (rel. May 8, 2003). The *Report and Order* reviewed Joint Petitioners' Counterproposal and severed it into two parts. The Joint Petitioners ask the Commission to (i) reconsider that portion of the *Report and Order* which summarily dismissed the portion of their proposal to amend the FM Table of Allotments set forth in the footnote below (hereinafter "Proposal")¹ and (ii) issue a notice of proposed rule making

¹ The Joint Petitioners' Proposal consists of the following changes to the FM Table of Allotments: (1) reallocate Channel 249C1 from McQueeney, Texas to Converse, Texas (KVCQ); (2) allot Channel 232A to Flatonia, Texas; (3) delete Channel 244C1 at Georgetown, Texas and allot Channel 243C2 to Lago Vista, Texas (KHFI); (4) substitute Channel 256A for Channel 243A at Ingram, Texas (vacant); (5) delete Channel 248C at Waco, Texas and allot Channel 247C1 to Lakeway, Texas (KWTX); (6) substitute Channel 297A for Channel 242A at Llano, Texas (KBAE); (7) substitute Channel 249A for Channel 297A at Nolanville, Texas (KLFX); and (8) substitute Channel 245C1 for Channel 247C at San Antonio, Texas (KAJA).

Noted for record 014
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which includes the elements of the Proposal, together with conflicting FM rule making proposals which were filed with the Commission by other parties subsequent to the filing of the Counterproposal. Due to the excessive delay (two and one-half years) in taking the initial action on the Proposal, the Joint Petitioners request that the Commission take this action on an expedited basis. In support, the following is stated:

1. This proceeding initially involved a proposal to add an FM channel to Quanah, Texas. *See Notice of Proposed Rule Making*, 15 FCC Rcd 15809 (2002) ("NPRM"). The Joint Petitioners timely filed a Counterproposal on October 10, 2000 which involved various communities in Texas and Oklahoma. Two and one-half years later, the Commission issued the *Report and Order*, which considered the Proposal as being separate and distinct from other elements of the counterproposal. It denied the other elements of the counterproposal due to a short spacing between the proposed substitution of Channel 230C1 at Archer City, Texas, and the then-pending application for Station KICM, Krum, Texas. *Report and Order* at ¶¶ 4-5. It also denied the Proposal, but not because of any technical defect – rather, solely on the ground that it did not conflict with the proposed allotment to Quanah, Texas, as set forth in the NPRM.^{2/} *Report and Order* at ¶¶ 6-7.

² The Commission also stated that it "no longer entertains alternative proposals set forth in counterproposals," citing *Winslow, Camp Verde, Mayer and Sun City West, Arizona*, 16 FCC Rcd 9551 (2001). However, this policy does not bar acceptance and consideration of the Joint Petitioners' Proposal for two reasons. First, this Proposal predates the stated change in policy. It was filed on October 10, 2000, at a time when the Commission routinely accepted and processed alternative proposals. The Commission did not change that policy until May, 2001. *Winslow, supra*. In doing so, it stated that the policy would become effective as to "an initial petition for rule making or in a counterproposal" upon publication in the Federal Register. *Id.* See 66 Fed. Reg. 29237 (May 30, 2001). It therefore has no applicability to the prior-filed instant Proposal. Second, the instant Proposal is not an "alternative proposal" within the scope of the *Winslow* policy. That policy was expressly designed to prevent alternatives in which the Commission was put to a choice as to which alternative to adopt, and consequently open itself to second-guessing on reconsideration. *See Winslow, supra*, 16 FCC Rcd at 9555 ("even a single optional or alternative proposal has required us to speculate on the proposal actually preferred by the proponent or what proposal would, in our view, have the greatest public interest benefit."). In this case, there was no choice. If the counterproposal as a whole were defective, then one or the other of the two severed portions would necessarily be defective as well. Thus, only one of them *could* be grantable, and the Commission was not required

Cont'd. . . .

2. There is no dispute that the Proposal, standing alone, was facially acceptable. Accordingly, the Joint Petitioners submit that the Commission was *required* to consider the Proposal on its own merits and erred in dismissing it entirely. The Commission's decision to dismiss the Proposal without substantive consideration was contrary to principles of fundamental due process as embodied in the Administrative Procedure Act, inconsistent with a substantial body of case law (including a case decided as recently as May 30, 2003), and contrary to the public interest.

3. Under 5 U.S.C. § 553(e) of the APA, the Commission is required to give an interested person the right to petition for the issuance of a rule. If such a petition is denied, the agency must give prompt notice of its denial, and the reasons therefor. 5 U.S.C. § 555(e). It is not within the Commission's power to reject a petition for rule making outright unless it is patently defective. *National Org. for the Reform of Marijuana Laws v. Ingersoll*, 497 F.2d 654 (D.C. Cir. 1974); *See Municipal Light Boards v. FPC*, 450 F.2d 1341, 1345 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972) (rejection of a filing is appropriate if "the filing is so deficient on its face that the agency may properly return it to the filing party without even awaiting a responsive filing by any other party in interest"). The Joint Petitioners' Proposal was clearly *not* deficient on its face. Hence, the Commission was required to consider its merits.

4. Since the formation of the FM Table of Allotments, the Commission has entertained proposals for rule making to amend the FM Table of Allotments on a first-come, first-served basis. A *counterproposal* is simply a proposal for rule making that is mutually

... Cont'd.

to choose. Since the Commission found that the Joint Petitioners' Proposal was not in conflict with the proposed allotment to Quanah, Texas, it correctly treated it as a separate Proposal, not as an alternative. Thus, the *Winslow* policy was not a bar to accepting the Proposal and issuing a notice of proposed rule making.

exclusive with (and timely filed with respect to) another pending proposal. *See Implementation of BC Docket 80-90 to Increase the Availability of FM Broadcast Assignments*, 5 FCC Rcd 931 (1990). It is the element of mutual exclusivity that converts a proposal into a counterproposal. *See Pinewood, South Carolina*, 5 FCC Rcd 7609 (1990) (a mutually exclusive rule making proposal submitted by the counterproposal deadline in a proceeding is considered in the context of that proceeding).

5. On the other hand, if mutual exclusivity is not present, an FM rule making counterproposal is just like any other proposal to amend the FM Table of Allotments, and must be accepted and considered like every other FM rule making proposal, based on the date it was filed with the Commission. The Commission has consistently followed this rule. Most recently, in *Noblesville, Indianapolis, and Fishers, Indiana*, DA 03-1118 (rel. May 30, 2003), the Commission rejected a proposal that was not mutually exclusive with the original petition, but held that the proposal would be considered in a separate proceeding. *Id.* at ¶¶ 1 and 3 n.4. This is virtually identical to the present situation. *See also Saratoga, Wyoming et al.*, 15 FCC Rcd 10358, 10359 (2000) (counterproposal no longer in conflict with initial proposal treated as a new petition for rule making in a separate proceeding); *Alva, Oklahoma, et al.*, 11 FCC Rcd 20915 (1996) (counterproposal not in conflict with initial proposal accepted as a new petition); *Oakdale and Campti, Louisiana*, 7 FCC Rcd 1033 n.5 (1992) (proposal not in conflict with initial proposal set forth in separate notice of proposed rule making); *Kingston, Tennessee*, 2 FCC Rcd 3589 n.1 (1987) (proposal not in conflict with pending proposal accepted in a proceeding); *Cazenovia, New York, et al.*, 2 FCC Rcd 1169, 1171 n.2 (1987) (separate proceeding initiated to address non-conflicting counterproposal filed elsewhere). In the *Report and Order*, the Commission gave no reason why it treated the Joint Petitioners' Proposal differently than these

other proposals which involved counterproposals found not to be in conflict with initial rule making proposals.² By failing to issue a separate notice of proposed rule making for the Proposal, the Commission deviated from past practice and did not act in accordance with the public interest.

6. The Commission must accept the Joint Petitioners' Proposal as a new petition for rule making on a *nunc pro tunc* basis – that is, with a priority dating back to the date it was filed, October 10, 2000. It is not appropriate for the Commission to dismiss the Proposal after two and one-half years and invite the Joint Petitioners to refile it, particularly given the Commission's actions in the intervening years since it was filed. In theory, if the Commission had done everything correctly, the Proposal would have been afforded protection from untimely applications and petitions, and the spectrum would currently be clear for the refiling of the same proposal. However, the Commission did not do everything correctly. Not only did it take two and one-half years – an unconscionable length of time – to find that the Joint Petitioners' Proposal did not conflict with the original proposal in the proceeding, but in violation of its own procedural rules, the Commission also accepted eight FM rule making proposals and granted one FM application which conflict with the Joint Petitioners' earlier filed Proposal. See Exhibit A. As the attached channel studies demonstrate, the Joint Petitioners cannot refile the Proposal as a new proposal, because it would conflict with numerous proposals which the Commission erroneously accepted after the Joint Petitioners' Proposal was filed. See Exhibit B.

² A different situation is presented when a proposal is not mutually exclusive but rather *contingent* upon a specific outcome in a pending proceeding. In such situations, the Commission may dismiss the contingent proposal and it can be refiled when the proceeding has been concluded. See *Eufaula, Wagoner, Warner, and Sand Springs, Oklahoma*, 12 FCC Red 3743 (1997).

7. It would be unfair to require the Joint Petitioners to refile now, and somehow protect the subsequently filed proposals and allotments identified in Exhibit A, given that the Joint Petitioners filed first, and that the subsequent proposals were accepted erroneously. At this point, the Commission must consider the Joint Petitioners' Proposal in a new proceeding, dating back to the initial filing date of October 10, 2000. The Commission may also consider the proposals set forth in Exhibit A and consolidate them into one proceeding with the Joint Petitioners' Proposal.^{4/}

WHEREFORE, for the foregoing reasons, the Commission should issue a new notice of proposed rule making soliciting comment on Joint Petitioners' Proposal as originally filed on October 10, 2000, and the proposals set forth in Exhibit A. In view of the unconscionable length of time that has passed since the Proposal was filed, the Commission should take this action on an expedited basis.

⁴ One of these proposals, the allotment of Channel 232A at Victoria, Texas, was advanced in a counterproposal in MM Docket No. 02-248. However, this proceeding is still undecided, and the Victoria proposal could be consolidated with the Joint Petitioners' Proposal.

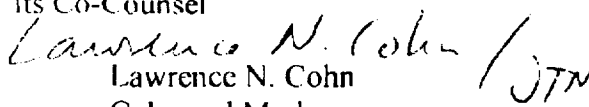
The conflicting construction permit for Channel 255C1 at Dilley, Texas (Station KLMO-FM) is another matter. The permit (BPH-20010102AAC) was issued in error because it conflicted with the prior-filed proposal to substitute Channel 256A at Ingram, Texas. Fortunately, there is a simple solution to this problem. The construction permit in fact does protect Channel 256A at Ingram. The permit was issued pursuant to Section 73.215 with respect to Stations KAYG, Camp Wood, Texas; KBUC, Pleasanton, Texas; and KJFK, Lampasas, Texas, and in affording contour protection to those stations it also affords contour protection to the Ingram allotment. Should the Joint Petitioners' Proposal be granted, the Dilley construction permit, with Section 73.215 protection towards Ingram, would not be affected.

RAWHIDE RADIO, LLC

By: 

Mark N. Lipp²
J. Thomas Nolan
Vinson & Elkins, LLP
1455 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 639-6500

Its Co-Counsel

 Lawrence N. Cohn
Cohn and Marks
1920 N Street, N.W.
Suite 300
Washington, D.C. 20036-1622
(202) 452-4817

Its Co-Counsel

June 16, 2003

Respectfully submitted,

CAPSTAR TX LIMITED PARTNERSHIP
CLEAR CHANNEL BROADCASTING
LICENSES, INC.

By: 

Gregory L. Masters
Wiley Rein & Fielding LLP
1776 K Street, NW
Washington, DC 20006
(202) 719-7370

Their Counsel

² Please note the new address for counsel.

EXHIBIT

<u>Channel</u>	<u>Docket No.</u>	<u>Community</u>	<u>Petitioner</u>	<u>Date Filed</u>	<u>Comments</u>
255C1	Unbuilt (CP) KLMO-FM	Dilley, Texas	Dilley Broadcasters	1/2/01	Construction permit, File No. BPH-20010102AA granted 4/17/02, short-spaced to Channel 256A at Ingram, Texas. Provides Section 73.215 contour protection to proposed Ingram allotment with no change in facilities.
232A	01-105	Shiner, Texas	Stargazer Broadcasting, Inc.	4/6/01	Conflicts with proposed allotment of Channel 232 at Flatonia, Texas.
256A	-----	Harper, Texas	Charles Crawford	5/7/01	Conflicts with proposed substitution of Channel 2 for Channel 243A at Ingram, Texas.
245C3	01-153	Tilden, Texas	Charles Crawford	5/18/01	Conflicts with proposed substitution of Channel 245C1 for Channel 247C at San Antonio, Texas.
250A	01-130	Batesville, Texas	Charles Crawford	5/21/01 5/23/01	Conflicts with proposed reallocation of Channel 249C1 from McQueeney to Converse, Texas.
249C3	01-133	Mason, Texas	Charles Crawford	5/25/01	Conflicts with proposed reallocation of Channel 249C1 from McQueeney to Converse, Texas.
297A	01-154	Goldthwaite, Texas	Charles Crawford	5/29/01	Conflicts with proposed substitution of Channel 2 for Channel 242A at Llano, Texas.
243A	01-188	Evant, Texas	Charles Crawford	6/15/01	Conflicts with proposed substitution of Channel 243C2 at Lago Vista, Texas for Channel 244C1 at Georgetown, Texas.
232A	02-248	Victoria, Texas	New Ulm Broadcasting Co.	10/21/02	Conflicts with proposed allotment of Channel 232 at Flatonia, Texas.

EXHIBIT B

Channel 247C1 Lakeway Texas (KWTX)
Allocation Study

REFERENCE

30 18 27 N
97 46 46 W

CLASS = C1
Current Spacings

DISPLAY DATES

DATA 04-24-03
SEARCH 05-25-03

----- Channel 247 - 97.3 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 247C1	Lakeway	TX	0.00	0.0	245.0	-245.00
RDEL	DEL 248C	Waco	TX	0.00	0.0	209.0	-209.00
KAJA	LIC 247C	San Antonio	TX	125.95	226.5	270.0	-144.05
RDEL	DEL 247C	San Antonio	TX	131.56	227.3	270.0	-138.44
KWTXFM	LIC 248C	Waco	TX	122.70	21.2	209.0	-86.30
KWTXFM	CP 248C	Waco	TX	122.73	21.3	209.0	-86.27
RDEL	DEL 244C1	Georgetown	TX	2.63	308.6	82.0	-79.37
KHFIFM	LIC 244C1	Georgetown	TX	2.63	308.6	82.0	-79.37
RDEL	DEL 244C1	Georgetown	TX	19.20	328.5	82.0	-62.80
RADD	ADD 248C2	Marlin	TX	111.55	32.1	158.0	-46.45
RDEL	DEL 248C2	Waco	TX	144.96	22.4	158.0	-13.04
RADD	ADD 249A	Nolanville	TX	89.23	12.2	75.0	14.23
ALLO	RSV 249C1	Mcqueeney	TX	105.99	173.9	82.0	23.99
KVCQ.C	CP 249C1	Mcqueeney	TX	107.38	173.1	82.0	25.38
RADD	ADD 249C1	Converse	TX	119.75	214.7	82.0	37.75
RDEL	DEL 249C1	Mcqueeney	TX	119.75	214.7	82.0	37.75
RADD	ADD 249C1	Converse	TX	119.75	214.7	82.0	37.75
RADD	ADD 245C1	San Antonio	TX	131.56	227.3	82.0	49.56

37

Channel 245C1 San Antonio Texas (KAJA)
Allocation Study

REFERENCE

29 30 01 N

98 46 41 W

CLASS = C1

Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 245 - 96.9 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 245C1	San Antonio	TX	0.00	0.0	245.0	-245.00
RDEL	DEL 247C	San Antonio	TX	0.00	0.0	105.0	-105.00
KAJA	LIC 247C	San Antonio	TX	5.88	63.8	105.0	-99.12
RADD	ADD 245C3	Tilden	TX	115.28	167.0	211.0	-95.72
RDEL	DEL 244C1	Georgetown	TX	131.18	45.6	177.0	-45.82
KHFIFM	LIC 244C1	Georgetown	TX	131.18	45.6	177.0	-45.82
RDEL	DEL 244C1	Georgetown	TX	136.54	38.8	177.0	-40.46
ALLO	244	Piedras Negras	CI	190.58	242.9	209.0	-18.42
KIOXFM	LIC 245C1	El Campo	TX	244.51	105.5	245.0	-0.49
KXYLFM	LIC 245C1	Brownwood	TX	245.29	355.1	245.0	0.29
ALLO	USE 245C1	Brownwood	TX	245.29	355.1	245.0	0.29
ALLO	VAC 243A	Ingram	TX	77.53	325.5	75.0	2.53
RDEL	DEL 243A	Ingram	TX	77.53	325.5	75.0	2.53
KXYLFM	CP 245C1	Brownwood	TX	254.82	348.2	245.0	9.82
KXTNFM	LIC 298C	San Antonio	TX	55.78	116.6	41.0	14.78
RDEL	DEL 248C	Waco	TX	131.56	46.8	105.0	26.56
ALLO	246	Nuevo Laredo	TA	226.44	200.9	195.0	31.44
XHNLOF	OPE 246B	Nuevo Laredo	TA	234.75	197.7	195.0	39.75
ALLO	VAC 242A	Cotulla	TX	118.05	201.0	75.0	43.05
RADD	ADD 247C1	Lakeway	TX	131.56	46.8	82.0	49.56
RADD	ADD 243C2	Lago Vista	TX	136.54	38.8	79.0	57.54
RADD	ADD 243C2	Lago Vista	TX	136.54	38.8	79.0	57.54
KBAE	LIC 242A	Llano	TX	133.02	8.5	75.0	58.02
RDEL	DEL 242A	Llano	TX	137.01	6.6	75.0	62.01
ALLO	VAC 242A	Yorktown	TX	139.47	111.1	75.0	64.47
RDEL	DEL 242A	Yorktown	TX	139.47	111.1	75.0	64.47
RADD	ADD 242A	Shiner	TX	146.30	91.0	75.0	71.30
RADD	ADD 242A	Flatonina	TX	152.30	84.7	75.0	77.30
RVAC	VAC 299A	Leakey	TX	110.40	281.9	22.0	88.40

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Channel 243C2 Lago Vista Texas (KHFI)
Allocation Study

REFERENCE

30 27 18 N

97 53 03 W

CLASS = C2

Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 243 - 96.5 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 243C2	Lago Vista	TX	0.00	0.0	190.0	-190.00
RADD	ADD 243C2	Lago Vista	TX	0.00	0.0	190.0	-190.00
RDEL	DEL 244C1	Georgetown	TX	0.00	0.0	158.0	-158.00
KHFIFM	LIC 244C1	Georgetown	TX	16.76	151.5	158.0	-141.24
RDEL	DEL 244C1	Georgetown	TX	16.76	151.5	158.0	-141.24
RADD	ADD 243A	Evant	TX	116.79	347.3	166.0	-49.21
KBAE	LIC 242A	Llano	TX	70.73	291.6	106.0	-35.27
RDEL	DEL 242A	Llano	TX	76.07	293.7	106.0	-29.93
RDEL	DEL 243A	Ingram	TX	136.65	252.3	166.0	-29.35
ALLO	VAC 243A	Ingram	TX	136.65	252.3	166.0	-29.35
KHMX	LIC 243C	Houston	TX	248.90	112.6	249.0	-0.10
ALLO	VAC 240A	Burnet	TX	58.88	318.5	55.0	3.88
RADD	ADD 242A	Flatonia	TX	113.30	145.1	106.0	7.30
RADD	ADD 242A	Shiner	TX	124.32	151.5	106.0	18.32
KGSR	LIC 296C2	Bastrop	TX	47.18	141.6	20.0	27.18
RADD	ADD 240A	Giddings	TX	85.33	104.6	55.0	30.33
KXXM	LIC 241C1	San Antonio	TX	116.09	218.4	79.0	37.09
RDEL	DEL 242A	Yorktown	TX	162.40	164.7	106.0	56.40
ALLO	VAC 242A	Yorktown	TX	162.40	164.7	106.0	56.40
RADD	ADD 245C1	San Antonio	TX	136.54	219.3	79.0	57.54
KLFX	LIC 297A	Nolanville	TX	75.49	21.1	15.0	60.49
RADD	ADD 297A	Llano	TX	76.07	293.7	15.0	61.07
RDEL	DEL 297A	Nolanville	TX	76.55	22.1	15.0	61.55
KLFX.A	APP 297A	Nolanville	TX	76.55	22.1	15.0	61.55
KSCS	LIC 242C	Fort Worth	TX	252.00	19.9	188.0	64.00
KLTG	LIC 243C1	Corpus Christi	TX	302.04	174.7	224.0	78.04
RADD	ADD 241C2	College Station	TX	145.36	76.2	58.0	87.36

46

Channel 297A Llano Texas (KBAE)
Allocation Study

REFERENCE

30 43 40 N
98 36 43 WCLASS = A
Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 297 - 107.3 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 297A	Llano	TX	0.00	0.0	115.0	-115.00
RADD	ADD 297A	Goldthwaite	TX	83.45	353.0	115.0	-31.55
KLFX	LIC 297A	Nolanville	TX	104.85	67.1	115.0	-10.15
KLFX.A	APP 297A	Nolanville	TX	106.60	67.3	115.0	-8.40
RDEL	DEL 297A	Nolanville	TX	106.60	67.3	115.0	-8.40
KXTNFM	LIC 298C	San Antonio	TX	164.52	168.2	165.0	-0.48
KHLBFM	LIC 295A	Burnet	TX	30.53	88.1	31.0	-0.47
RADD	ADD 297A	Junction	TX	114.91	255.1	115.0	-0.09
KFANFM	LIC 300C2	Johnson City	TX	58.90	182.5	55.0	3.90
KFANFM	APP 300C2	Johnson City	TX	58.90	182.5	55.0	3.90
RADD	ADD 296A	Brady	TX	83.88	301.9	72.0	11.88
KGSR	LIC 296C2	Bastrop	TX	119.83	124.0	106.0	13.83

#51

Channel 249A Nolanville Texas (KLFX)
Allocation Study

REFERENCE

31 05 38 N

97 34 51 W

CLASS = A

Current Spacings

DISPLAY DATES

DATA 04-24-03

SEARCH 05-25-03

----- Channel 249 - 97.7 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
KWTXFM LIC 248C	Waco	TX		37.34	43.5	165.0	-127.66
KWTXFM CP 248C	Waco	TX		37.38	43.5	165.0	-127.62
RADD ADD 249A	Nolanville	TX		0.00	0.0	115.0	-115.00
RDEL DEL 248C	Waco	TX		89.23	192.3	165.0	-75.77
RADD ADD 248C2	Marlin	TX		41.12	80.0	106.0	-64.88
RDEL DEL 248C2	Waco	TX		59.32	38.0	106.0	-46.68
ALLO RSV 249C1	Mcqueeney	TX		192.74	182.4	200.0	-7.26
KVCQ.C CP 249C1	Mcqueeney	TX		193.88	181.8	200.0	-6.12
RDEL DEL 249C1	Mcqueeney	TX		205.04	205.2	200.0	5.04
RADD ADD 249C1	Converse	TX		205.04	205.2	200.0	5.04
RADD ADD 249C1	Converse	TX		205.04	205.2	200.0	5.04
KVLZ LIC 252A	Gatesville	TX		41.39	343.7	31.0	10.39
KASZ.A APP 252A	Gatesville	TX		41.39	343.7	31.0	10.39
KBFB LIC 250C	Dallas	TX		175.53	19.1	165.0	10.53
KVETFM LIC 251C1	Austin	TX		87.98	193.8	75.0	12.98
RADD ADD 247C1	Lakeway	TX		89.23	192.3	75.0	14.23
RADD ADD 249C3	Mason	TX		159.74	255.6	142.0	17.74

54

Channel 249C1 Converse Texas (KVCQ)
Allocation Study

REFERENCE

29 25 07 N
98 29 02 W

CLASS = C1
Current Spacings

DISPLAY DATES

DATA 04-24-03
SEARCH 05-25-03

----- Channel 249 - 97.7 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 249C1	Converse	TX	0.00	0.0	245.0	-245.00
RADD	ADD 249C1	Converse	TX	0.00	0.0	245.0	-245.00
RDEL	DEL 249C1	Mcqueeney	TX	0.00	0.0	245.0	-245.00
ALLO	RSV 249C1	Mcqueeney	TX	79.95	94.8	245.0	-165.05
KVCQ.C	CP 249C1	Mcqueeney	TX	81.78	95.5	245.0	-163.22
RDEL	DEL 248C	Waco	TX	119.75	34.3	209.0	-89.25
KVCQ	LIC 249C3	Mcqueeney	TX	126.92	107.3	211.0	-84.08
KAJA	LIC 247C	San Antonio	TX	26.00	296.8	105.0	-79.00
RDEL	DEL 247C	San Antonio	TX	29.94	287.8	105.0	-75.06
RADD	ADD 249C3	Mason	TX	160.55	334.9	211.0	-50.45
RADD	ADD 250A	Batesville	TX	109.41	246.7	133.0	-23.59
RADD	ADD 250A	George West	TX	134.86	166.5	133.0	1.86
RADD	ADD 249A	Nolanville	TX	205.04	24.7	200.0	5.04
KFTX	LIC 248C1	Kingsville	TX	204.94	155.0	177.0	27.94
ALLO	248	San Carlos	CI	238.39	260.1	209.0	29.39
KWTXFM	LIC 248C	Waco	TX	240.78	27.5	209.0	31.78
KWTXFM	CP 248C	Waco	TX	240.82	27.5	209.0	31.82
RADD	ADD 247C1	Lakeway	TX	119.75	34.3	82.0	37.75
KVETFM	LIC 251C1	Austin	TX	120.10	33.1	82.0	38.10

55

Channel 249C1 McQueeney Texas (KVCQ)
Allocation Study

REFERENCE

29 25 07 N
98 29 02 WCLASS = C1
Current Spacings

DISPLAY DATES

DATA 04-24-03
SEARCH 05-25-03

----- Channel 249 - 97.7 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 249C1	Converse	TX	0.00	0.0	245.0	-245.00
RADD	ADD 249C1	Converse	TX	0.00	0.0	245.0	-245.00
RDEL	DEL 249C1	Mcqueeney	TX	0.00	0.0	245.0	-245.00
ALLO	RSV 249C1	Mcqueeney	TX	79.95	94.8	245.0	-165.05
KVCQ.C	CP 249C1	Mcqueeney	TX	81.78	95.5	245.0	-163.22
RDEL	DEL 248C	Waco	TX	119.75	34.3	209.0	-89.25
KVCQ	LIC 249C3	Mcqueeney	TX	126.92	107.3	211.0	-84.08
KAJA	LIC 247C	San Antonio	TX	26.00	296.8	105.0	-79.00
RDEL	DEL 247C	San Antonio	TX	29.94	287.8	105.0	-75.06
RADD	ADD 249C3	Mason	TX	160.55	334.9	211.0	-50.45
RADD	ADD 250A	Batesville	TX	109.41	246.7	133.0	-23.59
RADD	ADD 250A	George West	TX	134.86	166.5	133.0	1.86
RADD	ADD 249A	Nolanville	TX	205.04	24.7	200.0	5.04
KFTX	LIC 248C1	Kingsville	TX	204.94	155.0	177.0	27.94
ALLO	248	San Carlos	CI	238.39	260.1	209.0	29.39
KWTXFM	LIC 248C	Waco	TX	240.78	27.5	209.0	31.78
KWTXFM	CP 248C	Waco	TX	240.82	27.5	209.0	31.82
RADD	ADD 247C1	Lakeway	TX	119.75	34.3	82.0	37.75
KVETFM	LIC 251C1	Austin	TX	120.10	33.1	82.0	38.10

#60A

Channel 256A Ingram Texas (Vacant Channel 243A)
Allocation Study

REFERENCE
30 04 30 N
99 14 06 W

CLASS = A
Current Spacings

DISPLAY DATES
DATA 04-24-03
SEARCH 05-25-03

----- Channel 256 - 99.1 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 256A	Ingram	TX	0.00	0.0	115.0	-115.00
RADD	ADD 256A	Harper	TX	23.95	349.3	115.0	-91.05
KAYG	LIC 256A	Camp Wood	TX	85.32	242.2	115.0	-29.68
KLMOFM	CP 255C1	Dilley	TX	125.57	182.0	133.0	-7.43
RADD	ADD 257A	Leakey	TX	72.07	239.5	72.0	0.07
KBBT	LIC 253C1	Schertz	TX	78.61	141.0	75.0	3.61
ALLO	USE 253C1	Schertz	TX	78.61	141.0	75.0	3.61
KHHL	LIC 255C1	Leander	TX	139.75	58.5	133.0	6.75
KHHL.C	CP 255C2	Leander	TX	139.05	75.0	106.0	33.05
KLMOFM	LIC 255C1	Dilley	TX	167.19	180.5	133.0	34.19
KISSFM	LIC 258C	San Antonio	TX	129.21	133.3	95.0	34.21
RADD	ADD 259A	Mason	TX	74.83	0.1	31.0	43.83

#61

Channel 232A Flatonia Texas (Proposed Allotment)
Allocation Study

REFERENCE

29 37 00 N
97 12 44 W

CLASS = A
Current Spacings

DISPLAY DATES

DATA 04-24-03
SEARCH 05-25-03

----- Channel 232 - 94.3 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
RADD	ADD 232A	Flatonia	TX	0.00	0.0	115.0	-115.00
RDEL	DEL 232A	Flatonia	TX	0.00	0.0	115.0	-115.00
RDEL	DEL 232A	Shiner	TX	20.37	182.7	115.0	-94.63
RADD	ADD 232A	Shiner	TX	20.37	182.7	115.0	-94.63
RADD	ADD 232A	Victoria	TX	96.65	166.9	115.0	-18.35
KTBZFM	LIC 233C	Houston	TX	164.97	91.1	165.0	-0.03
KLBJFM	LIC 229C	Austin	TX	95.10	324.2	95.0	0.10
KAMX	LIC 234C	Luling	TX	96.66	324.4	95.0	1.66
KULF	LIC 231C3	Brenham	TX	96.42	52.5	89.0	7.42
ALLO	VAC 231C2	Brenham	TX	120.45	44.1	106.0	14.45
KULF.A	APP 231C2	Brenham	TX	120.45	44.1	106.0	14.45
KAJI	LIC 231C3	Point Comfort	TX	105.86	152.6	89.0	16.86
KAJI.C	CP 231C3	Point Comfort	TX	109.06	150.3	89.0	20.06
KEMA	LIC 233C2	Three Rivers	TX	128.13	219.2	106.0	22.13
KHTZ	LIC 232A	Cameron	TX	138.76	7.2	115.0	23.76
KLEYFM	LIC 231C2	Floresville	TX	135.11	249.4	106.0	29.11
KEMA.A	APP 233C2	Three Rivers	TX	135.17	224.1	106.0	29.17
KEMA.A	APP 233C2	Three Rivers	TX	135.17	224.1	106.0	29.17
KRVL	LIC 232C2	Kerrville	TX	198.44	291.4	166.0	32.44
KBUK	LIC 285A	La Grange	TX	44.60	48.4	10.0	34.60
RADD	ADD 235C2	Ganado	TX	91.22	150.4	55.0	36.22
RDEL	DEL 231C3	Point Comfort	TX	131.82	145.2	89.0	42.82

A

CERTIFICATE OF SERVICE

I, Lisa Balzer, a secretary in the law firm of Vinson & Elkins, do hereby certify that on this 16th day of June, 2003, I caused copies of the foregoing "Petition for Reconsideration" to be mailed, first class postage prepaid, or hand delivered, addressed to the following persons:

*Robert Hayne, Esq.
Federal Communications Commission
Media Bureau
Audio Division
445 12th Street, S.W.
Room 3-A262
Washington, D.C. 20554

Matthew L. Leibowitz, Esq.
Joseph A. Belisle, Esq.
Leibowitz & Associates, P.A.
One Southeast Third Avenue
Suite 1450
Miami, FL 33131-1715
(Counsel to Next Media Licensing, Inc.)

Maurice Salsa
5615 Evergreen Valley Drive
Kingwood, TX 77345

Dan J. Alpert, Esq.
Law Office of Dan J. Alpert
2120 North 21st Road
Suite 400
Arlington, VA 22201
(Counsel to M&M Broadcasters, Ltd.)

Gene A. Bechtel, Esq.
Law Office of Gene Bechtel, P.C.
1050 17th Street, N.W.
Suite 600
Washington, D.C. 20036
(Counsel to Elgin FM Limited Partnership and
Charles Crawford)

Robert Lewis Thompson, Esq.
Thiemann, Aitken & Vohra, L.L.C.
908 King Street, Suite 300
Alexandria, VA 22314

(Counsel to AM & PM Broadcasting, L.L.C.)

Jeffrey D. Southmayd, Esq.
Southmayd & Miller
1220 19th Street, N.W.
Suite 400
Washington, D.C. 20036
(Counsel to The Sister Sherry Lynn Foundation, Inc.)


Texas Grace Communications, Inc.
c/o Dave Garey
P.O. Box 8481
Gulfport, Mississippi

Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk, P.C.
5028 Wisconsin Avenue, N.W.
Suite 301
Washington, D.C. 20016
(Counsel to Dilley Broadcasters)

Stargazer Broadcasting, Inc.
c/o David P. Garland
1110 Hackney
Houston, TX 77023

BK Radio
c/o Bryan King
1809 Lightsey Road
Austin, TX 78704

Katherine Pyeatt
6655 Aintree Circle
Dallas, TX 75214



Lisa M. Balzer

* Hand Delivered

CERTIFICATE OF SERVICE

I, Elbert Ortiz, a legal secretary in the law firm of Wiley Rein LLP do hereby certify that I have on this 23rd day of November, 2007, caused to be mailed by first class mail, postage prepaid, copies of the foregoing **"Reply to Oppositions to Petition for Reconsideration"** to the following:

* Robert Hayne, Esq.
Media Bureau
Federal Communications Commission
445 12th Street, SW.
Washington, D.C. 20554

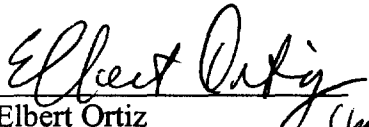
Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214
(Petitioner)

Gene A. Bechtel
Law Office of Gene Bechtel
1050 17th Street, N.W., Suite 600
Washington, D.C. 20036

Radioactive, LLC
1717 Dixie Highway
Suite 650
Ft. Wright, Kentucky 41011
(Permittee at Ingram, Texas)

John J. McVeigh, Esq.
16230 Falls Road
PO Box 128
Butler, MD 21023-0128
(Counsel to Munbilla Broadcasting
Properties, Ltd.)

Barry Friedman
Thompson Hine LLP
1920 N Street NW
Suite 800
Washington, DC 20036
(Counsel to Radio Ranch, Ltd.)


Elbert Ortiz (by MNL)

*Hand Delivered